

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THOMAS G. DAMKROGER and)	
DEANNE Y. DAMKROGER,)	Case No. 4:24-cv-3116
)	
Plaintiffs,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

**UNITED STATES' UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO
ANSWER OR OTHERWISE MOVE WITH RESPECT TO THE COMPLAINT**

Defendant, the United States, respectfully moves the Court under Fed. R. Civ. P.

6(b)(1)(A) for an enlargement of time to answer or otherwise move with respect to the complaint filed by Plaintiffs Thomas G. Damkroger and Deanne Y. Damkroger. The United States seeks a 60-day enlargement of time, that is, until October 29, 2024. Good cause exists for the requested extension as explained below.

1. Counsel for the United States and counsel for Plaintiffs, Robert B. Creager, have conferred regarding the relief requested by the United States. Counsel for Plaintiffs does not oppose the relief sought.

2. On June 25, 2024, Plaintiffs filed the complaint, initiating this civil action. (ECF No. 1.) Plaintiffs' complaint asserts a claim under 26 U.S.C. § 7422 for a tax refund. (*Id.*)

3. On July 1, 2024, the United States Attorney for the District of Nebraska was served with a copy of the summons and complaint.

4. Pursuant to Fed. R. Civ. P. 12(a)(2), the United States' answer is due within 60 days after service on the United States Attorney for the district where the action was brought, that is, by August 30, 2024.

5. Good cause exists to extend the time to file the United States' answer or otherwise move with respect to the complaint, as undersigned counsel is still gathering information from the Internal Revenue Service (IRS) and the IRS's views on the issues in this lawsuit, which are needed to determine the United States' position in this lawsuit and fully and accurately respond to the complaint.

6. The United States is not requesting a continuance for purposes of undue delay, and Plaintiffs will not be prejudiced by the extension of time requested.

7. “Rule 6(b)(1) governs motions seeking an extension of time, and courts generally grant extensions upon the showing of good cause when sought before the deadline at issue expires.” *Cooper v. Shelter Gen. Ins. Co.*, 2022 WL 1123069, at *2 (D. Colo. Apr. 14, 2022) (citing *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016) (“This rule should be liberally construed to advance the goal of trying each case on the merits.”)).

8. “‘Good cause’ is a non-rigorous standard that has been construed broadly across procedural and statutory contexts.” *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010). “[R]equests for extensions of time made before the applicable deadline has passed should ‘normally . . . be granted in the absence of bad faith or prejudice to the adverse party.’” *Id.* (quoting 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004)).

9. Accordingly, the United States respectfully requests that the Court extend its time to respond to the complaint by 60 days, up to and including October 29, 2024.

Dated: August 14, 2024

Respectfully submitted,

DAVID A. HUBBERT
Deputy Assistant Attorney General

/s/ Andrei A. Popovici
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CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2024, I caused a true and correct copy of the United States' Unopposed Motion for Enlargement of Time to Answer or Otherwise Move with Respect to the Complaint to be electronically filed, which will send notification of such filings to all registered CM/ECF participants, including counsel for Plaintiffs Thomas G. Damkroger and Deanne Y. Damkroger.

/s/ Andrei A. Popovici
ANDREI A. POPOVICI
Trial Attorney